

**MINUTES  
of the  
THIRD MEETING  
of the  
NEW MEXICO FINANCE AUTHORITY OVERSIGHT COMMITTEE**

**August 12-13, 2004  
Gallup**

The third meeting of the New Mexico finance authority (NMFA) oversight committee was called to order by Senator Mary Kay Papen, chair, at 10:18 a.m. on Thursday, August 12, in the McKinley county courthouse's commission chambers in Gallup. Senator Papen immediately handed over the gavel to Representative Patricia A. Lundstrom, who served as chair of the meeting.

**PRESENT**

Sen. Mary Kay Papen, chair  
Rep. Daniel P. Silva, vice chair  
Sen. Kent L. Cravens  
Rep. Roberto "Bobby" J. Gonzales  
Rep. Brian K. Moore  
Sen. Shannon Robinson (August 12)  
Sen. Nancy Rodriguez (August 13)  
Rep. Henry Kiki Saavedra

**ABSENT**

Sen. Pete Campos  
Sen. Clinton D. Harden, Jr.  
Rep. Dona G. Irwin  
Rep. Earlene Roberts  
Sen. H. Diane Snyder  
Rep. Sheryl Williams Stapleton  
Rep. Don Tripp

**Advisory Members**

Rep. Anna M. Crook  
Rep. Mary Helen Garcia  
Rep. Patricia A. Lundstrom  
Rep. Harriet Ruiz  
Rep. Edward C. Sandoval  
Rep. Luciano "Lucky" Varela  
Rep. Robert White

Rep. Donald E. Bratton  
Rep. Jose A. Campos  
Sen. Dianna J. Duran  
Sen. Joseph A. Fidel  
Sen. Mary Jane M. Garcia  
Sen. Stuart Ingle  
Sen. Don Kidd  
Rep. Ben Lujan  
Sen. Leonard Lee Rawson  
Sen. Bernadette M. Sanchez  
Rep. James G. Taylor

(Attendance dates are noted for those members not present for the entire meeting.)

**Staff**

Janice McCrary  
Renée Gregorio

**Guest Legislator**

Senator Lidio G. Rainaldi

**Guests**

The guest list is in the meeting file.

Copies of all handouts and written testimony are in the meeting file.

**Thursday, August 12****INFRASTRUCTURE NEEDS**

After the committee and audience members introduced themselves, Mayor Bob Rosebrough welcomed the committee to Gallup and presented Senator Papen with a key to the city, whose qualities and infrastructure needs he then delineated. Mayor Rosebrough described Gallup as being aggressive in terms of both new programs and the meeting of infrastructure needs and conservative in fiscal spending. He spoke of the exemplary tricultural heritage of the city, which comprises a population of 34 percent Native American, 33 percent Hispanic, 29 percent Anglo and 5 percent other. Because of the city's recent water rate increase, the mayor indicated that wastewater treatment needs will be met. He added that a settlement agreement for the Navajo-Gallup water supply project is quite close, with Gallup's piece being small, yet strategic. The city will receive water and distribute it east, west and south to the Navajo chapters; Gallup will also be responsible for approximately 25 percent of the costs for this project. Other area needs include reconstruction of the Munoz overpass, improvements on arterial routes and park improvements. Many of the city's water system and equipment needs have been met with loans from NMFA. In response to legislative questions regarding the response of residents to the water rate increase, the mayor said that the increase caused difficulty, but the city needed to secure the future of water resources; he added that New Mexico first helped greatly by sponsoring town hall meetings on the issues. The committee asked for and was provided with a listing of water rates for Gallup. Discussion ensued related to the *Zuni* lawsuit, student attendance and transportation issues. Senator Rainaldi indicated that the lawsuit is currently in the tenth circuit court of appeals in Denver and is not yet settled.

Doug Decker, McKinley county attorney, spoke on behalf of Harry Mendoza, chairman of the McKinley county commission, on infrastructure needs, noting that the county's needs are fairly aligned with the city's. Improvements to roads and buildings for law enforcement are primary. There is also the need to expand the metro dispatch authority that has already been created. Mr. Decker thanked the committee, legislature and NMFA for passing legislation that allows for the infrastructure gross receipts tax benefit. With revenue generated from the tax, the county was able to work with NMFA and the private market to attain and apply for needed financing for the courthouse project as well as for revitalization of the downtown Gallup area.

The old courthouse will be preserved for its historic nature and be used for the district attorney and other offices.

David Ulibarri, Cibola county manager, gave the committee an overview of infrastructure needs in the various areas of Cibola county, including Fence Lake, El Morro, San Raphael, Cebolleta, Bluewater Acres, San Mateo, Bluewater Village, Pueblo of Acoma, Ramah Navajo, Milan and Grants. Mr. Ulibarri indicated that the most crucial needs in Cibola county are for good quality water and road improvements. Other top priorities for the county include property acquisition and a new building for the district courts, a county facility, building renovation for the courts and a detention facility for Ramah Navajo. (See handout for more details and projects included as priorities.) In response to a question on the need for regionalization to meet area needs, Mr. Ulibarri reported that the county worked closely with the area council of governments to formulate a regional plan to address water and wastewater needs. Another issue that Mr. Ulibarri brought forth was the purchase of area ranches by Native Americans, which affects the county because that land is no longer taxable.

Other Gallup notables who then came forth included George Galanas, a judge and former state legislator; Harry Mendoza, chairman, McKinley county commission; Eric Honeyfield, city manager; and Ben Welch, city of Gallup. After Judge Galanas discussed DWI problems in the area and pointed out the need for a camera system to assist in apprehending offenders, he vehemently suggested that the legislature needs to do something about taking offenders off the roads. He added that counties need tools and officer training to help alleviate the problem of drunk driving and the often fatal results of this behavior. Discussion followed in which legislators pointed out that treatment centers are needed and that the entire process must be reviewed, from arrest to detention to treatment. Senator Cravens quoted Platonic theory by adding: "Law can't exist if any individual has the privilege of ignoring it," and pledged to work toward creating needed legislation.

### **CAPITAL OUTLAY PROCESSES**

Jeff Kiely, deputy director of the northwest New Mexico council of governments (COG), addressed the committee on the importance of strategic planning in determining and succeeding in funding infrastructure needs. These ideas were presented by the COG at the Navajo Nation infrastructure conference. Models and specific outlines were provided for planning as well as a rating sheet that assists entities in determining project readiness. Entities are also guided in determining overall funding needs and possible funding sources. In response to discussion, Carlos Romero, formerly of NMFA, noted that receiving planning funds is often the biggest hurdle, especially funding regional planners. In response to a question, Mr. Kiely indicated that COGs could certainly assist entities in accomplishing feasibility studies.

Discussion ensued regarding the capital outlay process and its dysfunction. Representative Varela strongly suggested that capital outlay budgeting needs to be organized and regulated in statute. He proposed forming a standing committee for capital budgeting as well. Although a quorum was not present for the meeting, the members who were present voted unanimously in support of this idea. Representative Varela added that defining the role of the

legislature in terms of the capital process is crucial.

Karen White, superintendent of the Gallup-McKinley county schools, addressed the committee on the issue of housing for teachers, a crucial problem in this largest land mass school district in the country. The district has worked with NMFA on funding issues for "teacherages"; the first teacherage was built in Thoreau. Units are being built with impact aid funds to accommodate teachers at reasonable rents and to help keep teachers in the area. In response to questions, Ms. White reported that teachers could never own these homes; they are all being built on leased Navajo land.

Beth Miller, executive director, UNM-Gallup, explained the capital outlay process that the university undergoes each year, indicating the steps taken to ensure that projects receive funding. She reported that in recent years, higher education institutions have not received capital outlay appropriations in years in which a general obligation bond bill is not introduced. Ms. Miller remarked that UNM-Gallup is a comprehensive community college; half of its business is in work force development and is technical in nature. She added that the college needs to establish courses in business development. A problem brought forth by Ms. Miller is in relationship to the prioritizing process that the commission on higher education (CHE) employs. She said that it is unclear how projects end up on CHE's list and that there is no communication or follow-up from CHE after project needs are set forth by the college. After much discussion about the need for communication between CHE and its institutions, the committee requested staff to draft a letter to CHE expressing concern over the lack of communication and sharing of information, stating that the approval process needs to be made clearer and communication channels need to be opened.

Stan Henderson, director of public works in Gallup, explained the methods he uses to gather together the infrastructure needs of the city to present to the city council. He mentioned that the local government division used to provide cost estimate guidelines to municipalities for roads and utilities, but it does not do this anymore. Mr. Henderson added that inadequate funding is often a problem, leaving the city with the decision on whether to accept or reject appropriated money that may not be enough to get the project done. He told the committee that much regional planning and working together to prioritize projects takes place between the cities of Gallup and Grants and the counties of McKinley and Cibola; what they need from the legislature is a commitment to fund the number one priority that is determined in this regional planning process.

#### **THE GALLUP REGIONAL WATER SYSTEM: AN UPDATE**

Lance Allgood, executive director of joint utilities for Gallup, gave a summary of the Navajo-Gallup water supply project, a \$490 million project to bring a sustainable water supply from the San Juan river to certain Navajo communities, the Jicarilla Apache Tribe, the city of Gallup and Navajo chapters. Mr. Allgood explained the project's four phases; funding has come from various sources, including the water project fund, legislative appropriations and federal appropriations. He indicated that from application through construction on a typical project takes approximately three years. He stressed that the process involved in funding this project has

been a partnership — with the state, the city of Gallup, Indian health service, the Navajo department of water resources, the Navajo tribal utility authority, the bureau of reclamation and the northwest New Mexico COG — with the intent of finding a way to equitably share the area's water supply, building both infrastructure and relationships for this to happen successfully.

### **THE WORKINGS OF NMFA'S PUBLIC PROJECT REVOLVING FUND**

Bill Sisneros, executive director of NMFA, spoke about how the authority processes requests to meet the requirements set out in statute that relate to improving the long-term planning, assessment and financing of state and local capital needs and assisting the executive, legislative and local governments in financing public projects. Mark Valenzuela, the new director of intergovernmental relations at NMFA, gave an overview of the authority's main program, the public project revolving fund (PPRF). The fund was designed to assist a wide range of municipal credits in accessing capital markets and to provide flexible loan structures. Mr. Valenzuela indicated that projects come to NMFA from several sources, but mainly from repeat borrowers. He added that NMFA has a basic test of assessment that asks if an entity is eligible and if it has revenue that can be pledged. Once an entity gets through the initial assessment, a list of projects is generated, which is presented to the NMFA board of directors before becoming part of the authorization bill for PPRF, which then goes before the oversight committee and then the full legislature. Once a project is authorized by the legislature, it moves into the credit and financing process at NMFA, where staff looks more closely with the entities to determine their capacity to take on a loan.

Marguita Russel, chief of programs at NMFA, explained that NMFA then assigns a financial analyst to look at an entity's ability to repay a loan, taking into consideration future revenue streams and historical data. If staff makes a positive recommendation for a project based on this research, then generally the board approves the project, she added. NMFA funds the loan and then goes to market for reimbursement bonds. Ms. Russel said that on the 387 loans made to date there have been no defaults. In response to a concern about NMFA rates, Mr. Sisneros indicated that this is a legitimate concern with general obligation bonds and this is a policy issue that needs to come before the oversight committee. Representative Gonzales asked how a new project would be handled in terms of financing, to which Ms. Russel responded that NMFA looks at the security of the revenue stream and that new, unproven streams have more tests to go through, but that NMFA turns away very few applicants.

Ms. Russell delineated reasons why an authorized project might not be completed, including that the entity is unable to meet the requirements of the loan, the entity chooses alternative financing or the project is simply not ready. She added that in 2004, although the authorization bill for the water and wastewater project grant fund was signed into law, no additional appropriation was added for that fund. While only \$6 million remained in the fund, the bill authorized over \$300 million in projects. She also discussed the portion of the governmental gross receipts tax that NMFA receives, an amount that has grown from \$9 million in 1992 to \$17 million this year, a 93 percent increase.

In the ensuing discussion, suggestions were made by committee members to find a way

to bring all funding sources together so that projects can be fully funded, with NMFA guiding this process. Mr. Sisneros indicated that NMFA is looking at this idea of "one-stop shopping" with a central databank on financing tools, creating a uniform application process for entities. In response to a question on how NMFA determines priorities, Mr. Sisneros remarked that there is no criteria at the present time; all requests are taken in and treated based on the capacity to repay loans. He added that to move into a broader-based economic development arena, such criteria will need to be developed. Some concern was expressed about not forgetting the smaller community projects and water and wastewater issues in those communities.

The committee recessed at 5:50 p.m.

### **Friday, August 13**

#### **NMFA REPORT CONTINUED: GOVERNOR'S WATER INNOVATION FUND AND GRIP REPORT**

Senator Papen, chair, reconvened the committee at 9:15 a.m. Mark Valenzuela reviewed the governor's water innovation fund, which was created to identify opportunities to improve water supplies and water quality throughout New Mexico. He reminded the committee that \$10 million was appropriated during this past legislative session from non-recurring general fund money. He added that the department of finance and administration (DFA) sent out letters soliciting interest; entities are required to submit proposals by August 18. These projects differ from those funded by the water trust board in that they are near-term applied science projects to be completed within six to 18 months. In response to a question about whose expertise is being used to determine if proposals are valid, Mr. Valenzuela said that a committee has not yet been defined for this purpose, but that NMFA will have a seat on such a committee. Legislators expressed concern over the makeup of this committee, saying that experts and scientists are needed to ensure that projects are not simply "feel-good" projects. Mr. Valenzuela promised to give the oversight committee an update at the next meeting on proposals submitted and on any other progress made. He added that projects will likely be selected by mid-October.

Much concern was expressed over the capital process because legislators were surprised that this \$10 million appropriation was part of the capital package. Committee members suggested that the governor should be asked to follow the same process regarding deadlines for submitting capital requests as the legislators. After it became evident that many members wanted to discuss capital outlay, committee members requested that a day be set aside strictly for this purpose. Although a quorum was not present at this meeting, all voting members present unanimously approved the request for an extra meeting day to discuss capital issues.

Keith Mellor, chief financial officer at NMFA, gave a financing update on GRIP and discussed the roles of NMFA and the department of transportation (DOT). While NMFA handles issuance of all GRIP bonds, acts as paying agent on GRIP debts, manages the DOT debt program and calculates monthly net debt service payment requirements, the DOT is responsible for all construction and maintenance on projects and for managing state and federal revenues for debt service payments. Mr. Mellor indicated that GRIP has \$700 million in new money

available and \$400 million issued to refund outstanding debt for DOT. He added that NMFA looks for opportunities in the market to make a profit on escrow, without taking undue market risk, noting that the purpose of GRIP is not to make money, but for money to be available to DOT when needed.

After discussion, Mr. Mellor agreed to provide the committee with details not only on drawdowns for GRIP, but on project specifics. Because of arbitrage issues, which essentially means the federal government will not allow an entity to issue tax-exempt debt and then turn around and make money on that debt, Mr. Mellor explained how NMFA works with the arbitrage schedule to ensure compliance. He added that NMFA has an arbitrage red flag system so it knows if arbitrage is due. Representative Varela requested that a monthly report be done by project for both the legislative finance committee and NMFA; Mr. Mellor agreed to send this report out.

### **THE NAVAJO NATION CAPITAL OUTLAY PROCESS**

Chavez John, Navajo Nation community development director, reported on changes within the Navajo Nation regarding improving the joint powers agreement (JPA) process, the management of projects and ensuring project readiness. (See handout for a JPA timeline on current projects.) He said that projects seeking funding are first submitted to his office for screening, then move on to the county for funding recommendations. In this year's legislative session, 26 projects were recommended in this fashion and of those 16 were considered by the legislature. This process has been put in place to ensure that only projects that were ready to begin were submitted. Mr. John added that the Navajo Nation is developing its own infrastructure capital improvement plan (ICIP) process consistent with DFA's ICIP process already in place. He stated that there is pending legislation in front of the Navajo Nation council to approve a capital planning element; this would represent the first time that a multi-year capital plan could be put into place. This year, 37 chapters participated in the ICIP process, up from 23 chapters last year, he noted.

Michelle Brown-Yazzie, deputy cabinet secretary, Indian affairs department, spoke about the importance of pre-planning and coordination of budgeting for the Navajo Nation's process. She added that the processing of JPAs with the nation often takes three to four months due to the unique 24-step process. It is different with tribes, she said, in that their JPAs are processed in only a few weeks. Ms. Brown-Yazzie also noted that the department is creating a capital unit to help with technical issues related to capital outlay projects that occur. Some considerations for change include streamlining the JPA process so that there is only one per tribe, which is amended for each project, she said. Another idea is to enter into a direct-pay process, where the state would pay vendors and contractors rather than routing the money through the nation, she reported.

### **REGIONAL PLANNING ORGANIZATION PROCESS**

Bob Wildoe, regional planner with the northwest New Mexico COG, explained the responsibilities of the regional planning organization, focusing on coordination, technical assistance and resource support for transportation projects. He described the ways in

which the organization helps promote interaction between local and tribal governments, conducts outreach related to transportation, provides staff for the regional transportation program and the policy and technical committees, and disseminates transportation information. The organization also develops the annual regional transportation improvement program recommendations that could then be included in the state's transportation improvement plan. Discussion ensued in which it was noted that the intention of GRIP was to fund highway maintenance projects, but that this is not what is happening with GRIP funding. Also noted was that legislators are never informed of the current costs for specific transportation needs.

### **GREATER GALLUP AFFORDABLE HOUSING**

Rhonda Berg, executive director of Rehobeth-Red Mesa foundation, explained that the foundation had an opportunity to contribute to the housing issue by donating 800 acres east of Gallup. She said that the property's master plan involves five centers, including a medical district, neighborhood center, a residential village and rural residential community property. The foundation is in the process of obtaining approvals from the local government, she added.

### **ECONOMIC DEVELOPMENT IN GALLUP**

Herb Mosher of the economic development center in Gallup spoke regarding the idea of forming a one-stop shop in Gallup for economic development concerns, adding that a facility is needed to actually bring all resources into one building. He explained that the players include the northwest New Mexico COG, the Gallup-McKinley county chamber of commerce, McKinley development foundation, adventure Gallup and beyond corporation, Gallup small business development center, the state's economic development department, the city of Gallup development commission, northwest New Mexico community development corporation and the workforce training institute. Senator Cravens suggested that the center look at the economic advantage of attracting dentists to the local market as well as the possibility of integrating a distance education program at the UNM campus. In response to a question about conference business in the area, Mr. Mosher said that it fluctuates, mainly due to the lack of a commuter airline and a convention center, but noted the downtown Gallup mall is being completed, which should help.

The meeting was adjourned at 12:30 p.m.